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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,592	02/13/2004	Robby Lemmens	1316N-001695	9314

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EXAMINER
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WILLIAMS, THOMAS J

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/779,592

Applicant(s)

LEMMENS ET AL.

Examiner

Thomas J. Williams

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/13/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

1. Acknowledgment is made in the receipt of the oath and information disclosure statement filed February 13, 2004.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 13-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 13 line 2, it is unclear as to which of the plurality of pistons that "said piston" is referencing.

It appears that "said piston" should be changed to read "said guide piston".

Claims 14-20 are rejected due to their dependence upon claim 13.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 9-12, 21 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,360,192 to Ishida.

Re-claim 1, Ishida discloses a damper, comprising: a pressure tube 1; a damper piston 2; a piston rod 3; a rod guide assembly is disposed between the piston rod and the pressure tube

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(similar to figure 6 in the instant invention); the rod guide assembly comprising: a main housing 5; a first seal 21 is disposed between a first component 5 and the piston rod 3; a second seal is disposed between a second component 10 and the piston rod 3 (the interaction between the guide piston 10 and the rod is interpreted as the seal); a fluid chamber 6; the guide piston 10 is moveable with respect to the fluid chamber and varies the volume of the fluid chamber.

Re-claims 2-4 and 9-12, see figure 1.

Re-claims 21 and 23, the rod guide assembly comprises a retainer 13, the retainer is disposed between the guide piston 10 and the damper piston 2, the retainer acts as a stop for the guide piston; the retainer is attached to the pressure tube.

Re-claim 24, the seal element 21 is provided with two pressing surfaces or extensions (see figure 1), the second pressing surface is interpreted as a dust wiper and will act to prevent the ingress of foreign matter.

7. Claims 1-8 and 13-24 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,011,121 to Oriola et al.

Re-claim 1, Oriola et al. discloses a damper, comprising: a pressure tube 11; a damper piston 16; a piston rod 17; a rod guide assembly is disposed between the piston rod and the pressure tube; the rod guide assembly comprising: a main housing 60; a first seal 59 (specifically elements 67) is disposed between a first component 60 and the piston rod 17; a second seal 66 is disposed between a second component 65 and the piston rod 17; a fluid chamber 71; a guide piston 65 is moveable with respect to the fluid chamber and varies the volume of the fluid chamber.

Re-claims 2-4, see figures 4 and 7.

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Re-claim 5, the guide piston 65 slidingly engages the main housing 60.

Re-claims 6-8, sees figures 4 and 7.

Re-claims 13 and 17, the guide piston 65 slidingly engages a sleeve 42/62 disposed between the pressure tube and the guide piston; the sleeve is attached to the main housing 60.

Re-claims 14-16, see figures 4 and 7.

Re-claims 18 and 21, the rod guide assembly further comprises a retainer (either ring bulge structure in figure 4 or bulge structure 70 in figure 7) disposed between the guide piston 45/65 and the damper piston 16, the retainer provides a stop for the guide piston.

Re-claim 19, the retainer in figure 4 will provide a stop for the damper piston 16.

Re-claim 20, the retainer abuts the sleeve 42.

Re-claim 22, the retainer is attached to the main housing, see figure 7.

Re-claim 23, the retainer is attached to the pressure tube, see figure 4.

Re-claim 24, the first seal has a plurality of sealing projections 47/67, one of which will act as a dust wiper.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schnitius, Smith et al., Jobelius et al. and Ito et al. (JP 1-169139) each teach a rod guide assembly having a guide piston .

9. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is (703) 305-1346. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Bucci, can be reached at (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

TJW

December 29, 2004

**THOMAS WILLIAMS  
PATENT EXAMINER**

*Thomas Williams*  
AU 3683  
12/29/04